

**REMARKS**

Claim 32 has been canceled. Claims 1-31 and 33 are pending in the application. Applicants amend claims 1-5, 7, 10, 15-17, 19-21, 23-24, 26, and 33 for further clarification. No new matter has been added.

Claims 1 and 5-6 stand rejected under 35 U.S.C. § 103(a) for being unpatentable over U.S. Patent Application Publication No. 2002/0012385 to Yun et al., in view of U.S. Patent Application Publication No. 2002/0072372 to Tsutsumi et al.; and claims 2-4, 7-31, and 33 stand rejected under 35 U.S.C. § 103(a) for being unpatentable over Yun et al., in view of Tsutsumi et al., and further in view of U.S. Patent No. 6,987,738 to Subramanian et al.. Applicants amend claims 1-5, 7, 10, 15-17, 19-21, 23-24, 26, and 33 in a good faith effort to further clarify the invention as distinguished from the cited references, and respectfully traverse the rejection.

Yun et al. and Tsutsumi et al. both only describe selecting a base station by measuring quality of service in the link between the source user equipment and the various base stations available for selection. Yun et al., for example, uses orthogonal downlink pilot signals from each base station as part of calculations to determine the most suitable base station along the corresponding uplink channel, from the source apparatus towards the base station—please see, e.g., paragraph [0006] of Yun et al.—along with handover diversity information, and in some embodiments, uplink interference information, to allow the source apparatus to choose a base station.

In contrast, the claimed invention provides for determining quality of service from the base station to the destination user equipment. This is a different part of a path between source and destination user equipments. The advantage of taking this part of the path into consideration

is that it might be possible to select, as an active base station, the base station that will give the best overall performance through to the destination user equipment. In this way, the soft handover selection process can be made more efficient.

Thus, the claimed invention can make a better selection than the techniques described in the cited art when there is varying signal quality between the various base stations available for selection and the destination user equipment.

In general, a destination user equipment and source apparatus are likely to be in separate cells of a network. However, even if the destination user equipment and the source apparatus are in the same cell, Yun et al. and Tsutsumi et al. use signals between the base station and the source apparatus to measure service quality. These specific signals are used to measure the quality of that link between the base station and source apparatus in particular, not the general level of quality/service in the cell. Therefore, the quality of the link between the base station and the destination station is not considered in either Yun et al. or Tsutsumi et al.

Thus, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Yun et al. and Tsutsumi et al., such a combination would still clearly have failed to disclose or suggest the claimed features of .

In other words, such a combination would still have failed to disclose or suggest,

“[a] method of selecting an active base station during soft handover, the active base station receiving data from a source apparatus for onward transmission to a destination apparatus, the method comprising:

obtaining a measure of service quality of data transmission from each of a base station to said destination apparatus and another base station to said destination apparatus;

said base station and said other base station transmitting said measures of service quality of data transmission to said source apparatus; and

said source apparatus selecting the active base station based on the measures of service quality of data transmission received from said base stations,” as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 5-6 dependent therefrom, is patentable over Yun et al. and Tsutsumi et al., separately and in combination, for at least the foregoing reasons. The Examiner cited Subramanian et al. as a further combining reference to specifically address the additional features recited in claims 2-4 7-20, which depend from claim 1, and claims 21-31 and 33, of which independent claims 21, 26, and 33 incorporate features that correspond to those of claim 1 cited above. As such, a further combination with this reference would still have failed to cure the above-described deficiencies of Yun et al. and Tsutsumi et al., even assuming, arguendo, that such a further combination would have been obvious to one skilled in the art at the time the claimed invention was made. Accordingly, Applicants respectfully submit that claims 2-4 and 7-20 depend from claim 1 and independent claims 21, 26, and 33 are, together with claims 22-25 and 27-31 dependent from claims 21 and 26, respectively, patentable over the cited references for at least the same reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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